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11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 **TAMARA MILLER**, individually and  
on behalf of all others similarly  
14 situated,

15  
16 Plaintiff,

17 v.

18 **FINANCE OF AMERICA**  
19 **REVERSE, LLC**, d/b/a **AMERICAN**  
20 **ADVISORS GROUP**, a Delaware  
corporation,

21 Defendant.  
22

Case No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

23 **CLASS ACTION COMPLAINT**

24 **CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**  
25  
26  
27  
28

1 Plaintiff Tamara Miller (“Miller” or “Plaintiff”) brings this Class Action  
2 Complaint and Demand for Jury Trial (“Complaint”) against Defendant Finance of  
3 America Reverse, LLC, d/b/a American Advisors Group (“AAG” or “Defendant”)  
4 to (1) stop its practice of placing calls using an “artificial or prerecorded voice” to  
5 the cellular telephones of consumers nationwide without their prior express written  
6 consent, (2) enjoin Defendant from continuing to place prerecorded telephone calls  
7 to consumers who did not provide their prior written express consent to receive  
8 them, and (3) obtain redress for all persons injured by their conduct. Plaintiff, for  
9 her Complaint, alleges as follows upon personal knowledge as to herself and her  
10 own acts and experiences, and, as to all other matters, upon information and belief,  
11 including investigation conducted by her attorneys.

#### 12 NATURE OF THE ACTION

13 1. Defendant AAG is a Delaware corporation that engages in the practice  
14 of manufacturing and offering financing options including reverse mortgages to  
15 homeowners.

16 2. A reverse mortgage is a mortgage loan, usually secured by residential  
17 property, that enables the borrower to access the unencumbered value of the  
18 property.

19 3. Unfortunately for consumers, Defendant casts its marketing net too  
20 wide. That is, in an attempt to promote its business and generate leads for services,  
21 Defendant conducted (and continues to conduct) a wide-scale telemarketing  
22 campaign that features the repeated making of unsolicited, prerecorded phone calls  
23 to consumers’ phones, in violation of the Telephone Consumer Protection Act, 47  
24 U.S.C. § 227, *et. seq.* (the “TCPA”).

25 4. By making the prerecorded and autodialed calls at issue in this  
26 Complaint, Defendant caused Plaintiff and the other members of the Class actual

1 harm and cognizable legal injury. This includes: (1) the aggravation and nuisance  
2 and invasions of privacy that result from the receipt of such calls, (2) wear and tear  
3 on their telephones, (3) loss of battery life, (4) loss of value realized for the monies  
4 consumers paid to their carriers for receipt of such calls, and (5) the diminished  
5 use, enjoyment, value and utility of their telephone plans. Furthermore, Defendant  
6 made the calls knowing they interfered with Plaintiff and other Class members' use  
7 and enjoyment of, and the ability to access their phones including the related data,  
8 apps, software, and hardware components.

9 5. The TCPA was enacted to protect consumers from prerecorded phone  
10 calls like those alleged and described herein. In response to Defendant's unlawful  
11 conduct, Plaintiff brings this action seeking injunctive relief, requiring Defendant  
12 to cease all prerecorded telephone calling activities to telephones without first  
13 obtaining prior express consent that is required by the TCPA, as well as an award  
14 of statutory damages to the members of the Class under the TCPA, together with  
15 costs, pre and post-judgment interest, and reasonable attorneys' fees.

## 16 PARTIES

17 6. Plaintiff Tamara Miller is a natural person and resident of Tampa,  
18 Florida.

19 7. Defendant AAG is a corporation organized and existing under the laws  
20 of Delaware with its headquarters located at 18200 Von Karman Ave., Suite 150,  
21 Irvine, California 92612. On information and belief, AAG officers and directors  
22 exert operational control over their call centers and control the business strategy  
23 and daily operations of AAG, including AAG's sales, marketing strategy, and  
24 unlawful telemarketing activities.

## 25 JURISDICTION AND VENUE

26 8. The Court has subject matter jurisdiction over this action pursuant to  
27

1 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection  
 2 Act, 47 U.S.C. § 227, *et seq.*, (“TCPA” or the “Act”) a federal statute. The Court  
 3 also has jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332  
 4 (“CAFA”). The alleged Classes consist of over 100 persons each, there is minimal  
 5 diversity, and the claims of the class members when aggregated together exceeds \$5  
 6 million. Further, none of the exceptions to CAFA applies.

7 9. This Court has personal jurisdiction over AAG because, on  
 8 information and belief, it has solicited and entered into business contracts in this  
 9 District, and it is headquartered in this District.

10 10. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Defendant is  
 11 headquartered in this District and because the wrongful conduct giving rise to this  
 12 case occurred in, was directed to, and/or emanated from this district.

### 13 COMMON FACTUAL ALLEGATIONS

14 11. Defendant is a company that offers financing options for homeowners,  
 15 including reverse mortgages.

16 12. In recent years, AAG and other similar companies have turned to  
 17 unsolicited telemarketing as a way to increase their customer base. Widespread  
 18 telemarketing is one of the primary methods by which the Defendant recruits new  
 19 customers.

20 13. As explained by the Federal Communications Commission (“FCC”) in  
 21 its 2012 order, the TCPA requires “*prior express written consent* for all autodialed  
 22 or prerecorded telemarketing calls to wireless numbers and residential lines.” *In the*  
 23 *matter of Rules and Regulations Implementing the Telephone Consumer Protection*  
 24 *Act of 1991*, CG No. 02-278, FCC 12-21, 27 FCC Rcd. 1830 ¶ 2 (Feb. 15, 2012).

1           14. Yet, in violation of this rule, Defendant fails to obtain any prior  
2 express written consent to make these prerecorded telemarketing calls to residential  
3 telephone numbers.

4           15. Defendant utilized prerecorded voice or voice message when making  
5 the calls.

6           16. At all times material to this Complaint, Defendant was and is fully  
7 aware that unsolicited telemarketing calls are being made to consumers' residential  
8 telephones through its own efforts and its agents. All calls were made on behalf of,  
9 and for the benefit of the Defendant.

10           17. Defendant AAG knowingly made (and continues to make) unsolicited  
11 telemarketing calls without the prior express written consent of all call recipients. In  
12 so doing, Defendant not only invaded the personal privacy of the Plaintiff and  
13 members of the putative Class, but Defendant also intentionally and repeatedly  
14 violated the TCPA.

15                           **FACTS SPECIFIC TO PLAINTIFF**

16           18. On June 16, 2020, Plaintiff answered a telephone call placed to  
17 Plaintiff's cellphone (with a number ending in 5895) from (985) 228-9301, and was  
18 greeted by a pre-recorded avatar voice. The avatar asked how much Plaintiff paid  
19 on her mortgage and the amount remaining on the mortgage. This call was placed  
20 by or on behalf of AAG, for AAG's benefit.

21           19. Plaintiff received six (6) additional prerecorded calls from or on behalf  
22 of AAG. These calls were received on June 17, 2020, 3 calls on June 23, 2020, June  
23 29, 2020, and July 7, 2020.

24           20. Plaintiff has never provided her prior express written consent for  
25 Defendant to call her using an autodialer or a pre-recorded voice.

1           21. By making unauthorized prerecorded and autodialed calls as alleged  
2 herein, Defendant has caused consumers actual harm in the form of annoyance,  
3 nuisance, and invasion of privacy. In addition, the calls disturbed Plaintiff's use  
4 and enjoyment of her phone, and caused wear and tear to the phone's hardware  
5 (including the phone's battery). In the present case, a consumer could be subjected  
6 to many unsolicited calls as the Defendant ignores the requirement of prior express  
7 written consent.

8           22. In order to redress these injuries, Plaintiff on behalf of herself and the  
9 Class of similarly situated individuals, brings suit under the Telephone Consumer  
10 Protection Act, 47 U.S.C. § 227, *et. seq.*

11           23. On behalf of the Class, Plaintiff seeks an injunction requiring  
12 Defendant to cease all unlawful telemarketing activities and an award of statutory  
13 damages to the class members, together with costs, pre- and post-judgment interest,  
14 and reasonable attorneys' fees.

### 15 16                                   **CLASS ACTION ALLEGATIONS**

17           24. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure  
18 23(b)(2) and Rule 23(b)(3) on behalf of herself and all others similarly situated and  
19 seeks certification of the following Classes:

20  
21           **Prerecorded No Consent Class:** All persons in the United States from  
22 four years prior to the filing of the instant action who (1) Defendant (or  
23 a third person acting on behalf of Defendant) made prerecorded calls,  
24 (2) to the person's cellular telephone or residential telephone number,  
25 and (3) for whom Defendant claims it obtained prior express written  
26 consent in the same manner as Defendant claims it supposedly



1 c. Whether members of the Classes are entitled to treble damages  
2 based on the willfulness of Defendant's conduct; and

3 d. Whether Defendant obtained prior express consent to contact any  
4 class members using a prerecorded voice.

5  
6 28. **Adequate Representation:** Plaintiff will fairly and adequately  
7 represent and protect the interests of the Classes, and has retained counsel  
8 competent and experienced in class actions. Plaintiff has no interests antagonistic to  
9 those of the Classes, and Defendant has no defenses unique to Plaintiff. Plaintiff  
10 and his counsel are committed to vigorously prosecuting this action on behalf of the  
11 members of the Classes, and have the financial resources to do so. Neither Plaintiff  
12 nor his counsel has any interest adverse to the Classes.

13 29. **Appropriateness:** This class action is also appropriate for  
14 certification because Defendant has acted or refused to act on grounds generally  
15 applicable to the Classes and as a whole, thereby requiring the Court's imposition  
16 of uniform relief to ensure compatible standards of conduct toward the members of  
17 the Classes and making final class-wide injunctive relief appropriate. Defendant's  
18 business practices apply to and affect the members of the Classes uniformly, and  
19 Plaintiff's challenge of those practices hinges on Defendant's conduct with respect  
20 to the Classes as a whole, not on facts or law applicable only to Plaintiff.  
21 Additionally, the damages suffered by individual members of the Classes will likely  
22 be small relative to the burden and expense of individual prosecution of the  
23 complex litigation necessitated by Defendant's actions. Thus, it would be virtually  
24 impossible for the members of the Classes to obtain effective relief from  
25 Defendant's misconduct on an individual basis. A class action provides the benefits  
26 of single adjudication, economies of scale, and comprehensive supervision by a



1 single court. Economies of time, effort, and expense will be fostered and uniformity  
2 of decisions will be ensured.

3 **FIRST CAUSE OF ACTION**

4 **Telephone Consumer Protection Act**

5 **(Violation of 47 U.S.C. § 227)**

6 **(On behalf of Plaintiff and the Prerecorded No Consent Class)**

7 30. Plaintiff repeats and realleges the above paragraphs of this Complaint  
8 and incorporates them herein by reference.

9 31. Defendant made prerecorded calls to residential telephone numbers  
10 belonging to Plaintiff and other members of the Prerecorded No Consent Class  
11 without first obtaining prior express written consent to receive such calls.

12 32. Defendant made the prerecorded calls using equipment that had the  
13 capacity to store or produce telephone numbers using a random or sequential  
14 number generator, to receive and store lists of phone numbers, and to dial such  
15 numbers, *en masse*, without human intervention. The telephone dialing equipment  
16 utilized by Defendant, also known as a predictive dialer, dialed numbers from a list,  
17 or dialed numbers from a database of telephone numbers, in an automatic and  
18 systematic manner. Defendant's autodialer disseminated information *en masse* to  
19 Plaintiff and other consumers.

20 33. By making the prerecorded calls to Plaintiff and the residential  
21 telephones of members of the Prerecorded No Consent Class without their prior  
22 express written consent, and by utilizing an automatic telephone dialing system to  
23 make those calls, Defendants violated 47 U.S.C. § 227(b)(1)(A)(iii).

24 34. The calls were for telemarketing purposes and announced the  
25 commercial availability of Defendant's hearing aid goods and services.

1           35. Neither Plaintiff nor any other member of the proposed Class had any  
2 established business relationship with either Defendant.

3           36. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii). As a  
4 result of Defendant's conduct, Plaintiff and the other members of the Prerecorded  
5 No Consent Class are each entitled to, under 47 U.S.C. § 227(b)(3)(B), a minimum  
6 of \$500.00 in damages for each violation of such act.

7           37. In the event that the Court determines that Defendant's conduct was  
8 willful and knowing, it may, under 47 U.S.C. § 227(b)(3)(C), treble the amount of  
9 statutory damages recoverable by Plaintiff and the other members of the  
10 Prerecorded No Consent Class.

11  
12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for  
14 the following relief:

15           1. An order certifying the Classes as defined above, appointing Plaintiff  
16 as the representative of the Class, and appointing her counsel as Class Counsel;

17           2. An award of actual monetary loss from such violations or the sum of  
18 five hundred dollars (\$500.00) for each violation, whichever is greater all to be paid  
19 into a common fund for the benefit of the Plaintiff and Class Members;

20           3. Treble damages in case willful or knowing violations are proven

21           4. An order declaring that Defendant's actions, as set out above, violate  
22 the TCPA,

23           5. An injunction requiring Defendant to cease all unsolicited prerecorded  
24 calling and autodialing activities, and otherwise protecting the interests of the  
25 Classes;

